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In re Application of
HARRIS et al
U.S. Application No.: 10/585,565
PCT No.: PCT/AU2005/000257
Int. Filing Date: 28 February 2005
Priority Date: 27 February 2004
Docket No.: 50124/010001
For: OPTICAL ELEMENT

DECISION

This is a decision on the response filed 16 November 2009.

BACKGROUND

On 20 April 2009, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 05 May 2009, applicants filed an executed declaration. The first name of the second inventor ROSMAN was listed as Gavan on the declaration. The international publication ("WO 2005/082225") recorded the first name as Gavin.

On 15 October 2009, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) noting that the current declaration does not comply with 37 CFR 1.497(a) and (b) because of the discrepancy in the first name of the second inventor. Applicants were given one month to respond or any time remaining in the Form PCT/DO/EO/905, whichever is longer.

On 16 November 2009, applicants filed the subject response to the Form PCT/DO/EO/916.

DISCUSSION

In the subject response, applicants' state that the second inventor's "name was spelled correctly on the Application Data Sheet and the Declaration and Power of Attorney." Applicants included a statement from the inventor, Mr. ROSMAN who indicates that the international application was filed naming himself as Gavin Edmund ROSMAN, rather than as Gavan Edmund ROSMAN. The inventor declared that the

mistake in the international application occurred without any deceptive intention on his part.

Section 1893.01(e) of the Manual of Patent Examining Procedure (MPEP) states that where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.182 is not required. In such case, the Office should simply be notified of the error.

Applicants' explanation meets the requirements of the MPEP. A typographical error was made in the international application with regards to the first name of the inventor, Gavan Edmund ROSMAN.

CONCLUSION

The declaration filed 05 May 2009 is deemed to be in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 February 2005 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 05 May 2009.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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